



**FEDERAL ELECTION COMMISSION**

**Washington, DC 20463**

**MAR 18 2011**

**Mattie Fein**

**Venice, CA 20921**

**RE: MUR 6388**

**Dear Ms. Fein:**

On October 8, 2010, the Federal Election Commission notified you of a complaint alleging a violation of 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended. On March 17, 2011, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe that you violated 2 U.S.C. § 441a(f). Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009). The Factual and Legal Analysis, which explains the Commission's finding, is enclosed for your information.

If you have any questions, please contact Jack Gould, the attorney assigned to this matter at (202) 694-1650.

Sincerely,

A handwritten signature in dark ink, appearing to read "Mark Allen", is positioned above the typed name.

**Mark Allen  
Assistant General Counsel**

**Enclosure  
Factual and Legal Analysis**

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**BEFORE THE FEDERAL ELECTION COMMISSION****FACTUAL AND LEGAL ANALYSIS**

In the Matter of )  
 ) MUR 6388  
Mattie Fein )

**I. GENERATION OF MATTER**

This matter was generated by a complaint filed with the Federal Election Commission by Michael Chernus. See 2 U.S.C. § 437g(a)(1).

**II. INTRODUCTION**

Complainant alleges that Mattie Fein, a candidate for the U.S. House of Representatives from California's 36<sup>th</sup> Congressional District, may have not had the personal funds necessary to contribute and loan \$108,222 to her principal campaign committee, Mattie Fein for Congress ("Committee") during the 2010 election cycle. Complainant bases his allegation on Ms. Fein's financial disclosure statement filed with the U.S. House of Representatives, which does not reflect sufficient personal assets and income to support her contributions and loans to the Committee.

**III. FACTUAL BACKGROUND**

Ms. Fein's financial disclosure statement indicates that during 2009 she received a \$3,000 honorarium from The Litchfield Group, Inc. and income from a marital separation agreement in the range of \$15,001-\$50,000. For 2010, Ms. Fein again disclosed income from a marital separation agreement in the range of \$15,001-\$50,000. In her sworn response to the complaint, Ms. Fein averred that pursuant to her separation agreement with Bruce Fein, she received \$20,000 per month and that she "inadvertently checked an

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erroneous box" on her financial disclosure form. According to Ms. Fein, "the 'correct box' . . . should have indicated receipt of between \$100,000-\$1,000,000 from the separation agreement during 2009 and 2010." Ms. Fein's former husband, Bruce Fein, corroborated her statement in a sworn affidavit: "During 2009 and 2010, I paid Mattie Fein \$20,000 per month pursuant to a separation agreement."

**IV. LEGAL ANALYSIS**

The Federal Election Campaign Act of 1971, as amended ("Act"), provides that no person shall make contributions to any candidate and his authorized political committee with respect to any election for Federal office which in the aggregate, exceeded \$2,400 in the 2010 election cycle. 2 U.S.C. § 441a(a)(1)(A). In addition, the Act provides that no candidate, officer, or employee of a political committee shall knowingly accept any contribution that exceeds the contribution limits. 2 U.S.C. § 441a(f).

Commission regulations provide that candidates for Federal office may make unlimited expenditures from personal funds, including contributions to the candidate's principal campaign committee. See 11 C.F.R. § 110.10; Advisory Opinion 1984-60 (W. Patrick Mulloy). The Act defines "personal funds" as, *inter alia*, "income received during the current election cycle of the candidate . . . ." 2 U.S.C. § 431(26)(B); see also 11 C.F.R. § 100.33(b). Spousal support is treated as income for tax purposes. See 26 U.S.C. § 71; I.R.C. § 71. Mattie Fein received regular spousal support payments from her former husband pursuant to a formal separation agreement, and therefore, it is appropriate to treat those payments as "personal funds" under the Act.

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